

Appln. No. 10/612,445
Filing Date 07/02/2003
Inventor Magnusson

REMARKS/ARGUMENTS

Applicant wishes to thank Examiner Miggins for the courteous personal interview of December 15, 2005 at which the claims and the art of record were discussed. The Examiner suggested amending the claims to further clarify certain aspects of the invention. Claim 15 has been amended consistent with the Examiner's suggestions and to further distinguish over the art of record.

The terms "stabilizing" and "exposure to moist heat" in claim 15 have been replaced with comparable recitations of "sterilization" and "retort sterilization" supported at least at page 11, line 15 et seq. wherein autoclaving (i.e., retorting) is discussed. Claim 15 has also been amended to delete the phrase "a level of" modifying dimensional stability and mechanical strength, as this was deemed superfluous language. The term "liquid absorbing material" has been replaced with a Markush group reciting paper and cardboard. In addition, claim 15 has been amended to incorporate the recitations of claims 17 and 20, which have accordingly been cancelled.

The Examiner has maintained rejection under §103(a) based on the Derwent Abstract of JP 63237950A (JP 950A) in view of Koskineni et al. Applicant respectfully disagrees. As discussed in the response filed August 29 and at the December 15, 2005 interview, JP 950A teaches the use of a "core gas barrier film" which is an ethylene/vinyl alcohol copolymer. The use of a polymeric core is one of the known alternatives to paper and cardboard cores or base layers. This is discussed in applicant's specification on page 3, lines 9-13. However, polymeric cores are fundamentally different from paper and cardboard because the latter are susceptible to moisture absorption during autoclaving (retorting), which in turn can lead to loss of dimensional stability.

The Examiner combines JP950A with Koskineni et al, alleging that it would be obvious to use the retorting process of JP 950A with Koskineni et al.'s multilayer structure. Koskineni et al relates to a polymeric container with a cardboard core. The

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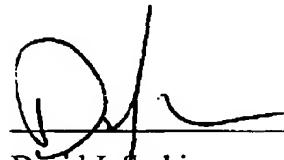
reference is directed to improvements in heat sealing the container surfaces during manufacture. There is no teaching of sterilizing the containers, by retorting or any other means. Koskiemi et al does, however, recognize a connection between the cardboard core and moisture. One of the objects is to reduce the heat sealing temperature and thus "...the steam pressure generated by moisture in the cardboard is diminished." See, col. 1, lines 54-55. If Koskiemi et al is concerned about steam pressure generated by *internal* moisture in the cardboard core, and seeks to reduce that steam pressure, it is highly unlikely that the skilled artisan would employ the Koskiemi et al structure in a retorting process, which uses moist heat at elevated temperatures for sterilization. The burden lies with the Examiner to establish why it would be obvious to use moist heat (steam) under pressure for sterilization when the reference itself seeks to avoid steam pressure during manufacture.

Yet, the strongest evidence that Koskiemi et al teaches away from retort sterilization is the disclosure in col. 2, lines 49-54 that a polymeric outer layer "is not indispensable" and that "even an untreated cardboard surface" can be used as the outer layer. Exposure of such a container to retorting conditions would in all instances lead to an unsatisfactory product, as moisture, particularly at elevated temperatures, has well known devastating effects on untreated, unprotected cardboard. Again, the burden rests with the Examiner to explain why the skilled artisan would use the container of Koskiemi et al in a retort sterilization process.

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In view of the above, the Examiner has failed to establish a *prima facie* case of obviousness, and a Notice of Allowance as to claims 15,16,18,19 and 21-26 is requested.

Respectfully submitted,



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